

Attorney Docket No.: SCHW P001USC1

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REMARKS

Applicants appreciate the time taken by the Examiner to review Applicants' present application. This application has been carefully reviewed in light of the Official Action mailed June 30, 2008. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 1-16 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The Examiner states:

The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The rejected claims cover every conceivable product. Particularly, "auditing system" is not in original specification and claims.

With respect to auditing system the applicant respectfully submits that auditing system has been amended to the original term of comparison engine. With respect to the examiner's assertion "the rejected claims cover every conceivable product" the applicant respectfully traverses this assertion and states that these Claims 1 through 16 are limited to a system for preparing documents wherein multiple databases are used to populate fields and data within document templates and a comparison engine compares data in the databases to identify discrepancies which may then be corrected. Therefore when the documents are produced reconciled data is used to populate the data fields of the document templates.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states:

Claim 20 recites the limitation "said auditing system" in2. There is insufficient antecedent basis for this limitation in the claim.

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With respect to the claims objections for Claim 2 the applicant respectfully submits that Claim 20 as presented is a dependent method claim that depends from independent method Claim 17. The applicant therefore respectfully requests that the examiner clarify his statement that Claim 20 is a system claim.

Rejections under 35 U.S.C. § 103

Claims 17-27 remained rejected under 35 U.S.C. 103(a) as being unpatentable over Broadbent et al. (hereinafter Broadbent - US 2001/0047326) in view of Florance et al. (hereinafter Florance - US 7,076,452). The Examiner states:

Re. Claim 17, Broadbent discloses computer implemented method, and system for preparing loan documents:

storing data and procedures for processing said data provided by a mortgage originator in a first database; storing data and procedures for processing said data provided by an investor in at least one additional database; comparing data provided by said mortgage originator to data provided by said investor [read entire document particularly at minimum, paragraphs 11, 19];

identifying discrepancies between said data provided by said mortgage originator and said investor [para. 275]; supplying additional information to prepare the documents to a documentation preparation engine [para. 20]; a compliance engine that determines if (examiner note: conditional language, not positively claimed) said reconciled data and said additional information are consistent with said procedures for processing said data provided by said mortgage originator and said investor, and wherein noncompliant reconciled data or additional information is reconciled and delivering said populated documents for execution [para. 51, 64-68, 127].

Broadbent does not explicitly disclose reconciling said discrepancies; auditing said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library. However, Florance discloses reconciling said discrepancies; auditing (examining) said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents

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contained within a forms library [see entire document, at minimum see, col. 20 lines 49-65, col. 29 lines 52-60, col. 59 lines 45-61]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Broadbent and include reconciling said discrepancies; auditing (examining and underwriting) said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library, as disclosed by Florance, to correlate data, and databases for facilitating for real estate loan applications and manipulating the data for examination for processing a loan application and underwriting.

Re. Claims, 18-27, Broadbent discloses wherein said mortgage originator enters data into said first database via a software package [para. 11, 25], wherein said procedures for processing said data provided by said mortgage broker and said investor comprise business rules and or compliance requirements [para. 51], wherein said comparison engine writes said reconciled data to said first database or said at least one additional database [inherently record can be added, deleted to database], wherein said at least one additional database comprises at least one database selected from the group consisting of property tax databases, independent property valuations databases, income/employment verification databases, income tax databases, and credit databases [para. 24], wherein said business rules comprise investor business rules, regulatory compliance requirements, or insurability requirements [para. 24], compliance requirements are issued by at least one entity selected from the group consisting of federal government agencies, state governments, local governments, banking regulators, FHA, VA, and FNMA/FHLMC [para. 13, 25], re-auditing (recheck) and allowing said broker to select additional documents from said forms library [Figure 4D and associated description].

Florance further discloses manipulating individual data fields within said populated documents, documents are populated automatically, re-auditing the documents with said compliance engine and reconciling discrepancies created by manipulating individual data fields within said populated documents, reconciling discrepancies created by adding additional documents and creating create database sets

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[see above]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Broadbent and include reconciling said discrepancies; auditing (examining and underwriting) said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library, as disclosed by Florance, to correlate data, and databases for facilitating for real estate loan applications and manipulating the data for examination for processing a loan application and underwriting.

Applicant submits that neither Broadbent nor Florance alone nor the combination of the two teaches or suggests make obvious the invention recited in Claims, 1-27. Applicant respectfully submits with regards to the examiner's first assertion with respect to Claims 1, 9 and 17 Broadbent does not disclose a computer implemented method for preparing loan documents. Specifically neither Paragraph [0011] nor [0019] disclose storing data and procedures for processing data by mortgage originator in a first database storing data and procedures for processing said data provided by an investor in at least one additional database where comparing data provided by the originator to the investor is performed. Rather, Paragraph [0011] merely teaches that automated loan application processing systems make loan application process more efficient and centrally controlled. Specifically this relates to generating and tracking tasks associated with a mortgage loan application such as "requesting an appraisal, evaluating the loan contract and application data, authorizing a loan, tracking the closing activities and completing the financial disposition of the loan." (Broadbent Paragraph [0011]) The applicant respectfully submits that the present invention focuses on reducing or eliminating errors associated with closing documents which previously have resulted in monetary losses associated with errors within closing documents. The applicant respectfully submits that present invention focused on proactively detecting and correcting errors of data to be incorporated within loan documents prior to closing. This prevents or reduces the need to discount the value of a loan to an investor after closing.

With respect to identifying discrepancies between data provided by a mortgage originator and investor the applicant respectfully submits that Paragraph [0275] at no point teaches the identification of discrepancies between the mortgage originator and investor. Examples of such data may be an

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error associated with the type of interest rate lock associated with the mortgage, the need for private mortgage insurance, an improperly listed interest rate, a loan program, or a failure to include investor fees within the individual loan. When such errors are present in the executed documents at closing the revenue streams associated with these fees are forever lost and result in the need to discount the value of the loan. Additionally investor business rules and compliance requirements may not typically be applied to individual loan packages. Therefore individual loan packages may be processed and approved without a thorough or qualitative review causing a substantial risk of loss for the investor.

With respect to the assertion of Broadbent, Paragraph [0020], teaching supply and additional information to prepare the documents to a document preparation engine the applicant respectfully submits that Paragraph [0020] does not teach document preparation or the steps of providing data to a documentation preparation engine, rather Paragraph [0020] merely teaches an “automated loan application processing system which attempts to keep track of some or all of these steps.” (Broadbent, Paragraph [0020]). Thus again Broadbent fails to teach the actual preparation of documents associated with mortgage.

The applicant respectfully submits that the compliance engine taught in Paragraph [0051] differs from that claimed in the present invention. The compliance engine of Broadbent maintains “a rules based loan compliance database to generate the set of tasks required to perform to complete and close a specific mortgage loan transaction.” (Broadbent, Paragraph [0051]). In the present invention for the purposes of clarity, the applicant respectfully submits that the term “compliance engine” has been amended and restated as an audit system wherein the audit system “audits reconciled data and additional information to ensure consistency with procedures and compliance requirements and allows non-compliant data to be identified and reconciled.” Thus the audit system claimed in the present invention differs from the compliance engine taught in Broadbent which merely generated a set of tasks to be performed as compared to reconciling data between diverse sources in order to minimize a reduction in value associated with a loan having inconsistent data.

The applicant respectfully submits that Florence does not relate to the preparation of mortgage documents as well. Florence teaches a system and method for the collection and distribution of use of information in connection with commercial real estate. Column 20, Lines 29-65, relate to the establishment of a unified group of correlated databases used to provide real estate data to real estate industry professionals. Column 29, Lines 52-60, relates to three dimensional video description of

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properties and Column 59, Lines 45-61, relate to tenant information. The applicant respectfully submits that the passages of Florence cited do not address inconsistent data may have been previously used to improperly populate documents where inconsistent data was still consistent with procedures for processing data within loan documents. The instant application provides an additional quality check not previously provided by ensuring that a comparison engine compares data to identify discrepancies within the data and produce reconciled data wherein this reconciled data is then used to populate the documents. Thus the applicant respectfully submits it would not have been obvious to apply these teachings which do not relate to the preparation of loan documents to Broadbent which does not relate as well to the preparation of loan documents containing reconciled data to reach the claimed invention.

Regarding Claims 18-27, the applicant respectfully submits again as previously stated that Broadbent Paragraph [0011] and [0025] teach a loan application processing system to track closing activities (tasks) required in completing the final disposition of the loan. However this does not teach the actual preparation and quality control associated with the closing documents as is claimed in the present invention.

The applicant further submits that Paragraph [0024] of Broadbent fails to teach that the databases presented such as property tax database, independent property evaluation databases, income/employment verification databases, income tax databases and credit databases are not disclosed in Paragraph [0024]. Again Paragraph [0024] relates to the use of database to identify a "set of tasks required to process and complete the loan transaction" (Broadbent Paragraph [0024]). While present invention focuses on providing loan documents which may be populated using the above identified databases and wherein the comparison engines reconcile the data of the various databases to remove or eliminate any inconsistencies within data from multiple databases to be used within the loan documents.

The applicant respectfully submits that a distinct difference may be drawn between "generating and monitoring a set of required procedures involved in moving and tracking a mortgage loan through one or more steps" (Broadbent Paragraph [0025]) to a system used for generating closing documents.

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Claims 1-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Broadbent et al. (hereinafter Broadbent - US 2001/0047326) in view of Florance et al. (hereinafter Florance - US 7,076,452) and Acosta et al. (hereinafter Acosta - US 6,643,625). The Examiner states:

Re. Claims, 1, and 9, Broadbent discloses computer implemented method, and system for preparing loan documents:

storing data and procedures for processing said data provided by a mortgage originator in a first database; storing data and procedures for processing said data provided by an investor in at least one additional database; comparing data provided by said mortgage originator to data provided by said investor [read entire document particularly at minimum, paragraphs 11, 19];

identifying discrepancies between said data provided by said mortgage originator and said investor [para. 275]; supplying additional information to prepare the documents to a documentation preparation engine [para. 20]; a compliance engine that determines if (examiner note: conditional language, not positively claimed) said reconciled data and said additional information are consistent with said procedures for processing said data provided by said mortgage originator and said investor, and wherein noncompliant reconciled data or additional information is reconciled and delivering said populated documents for execution [para. 51, 64-68, 127].

Broadbent does not explicitly disclose reconciling said discrepancies; auditing said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library, and auditing system. However, Florance discloses reconciling said discrepancies; auditing (examining) said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library [see entire document, at minimum see, col. 20 lines 49-65, col. 29 lines 52-60, col. 59 lines 45-61]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Broadbent and include reconciling said discrepancies; auditing (examining and underwriting) said reconciled discrepancies and populating data and additional information consistent

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with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library, as disclosed by Florance, to correlate data, and databases for facilitating for real estate loan applications and manipulating the data for examination for processing a loan application and underwriting.

Acosta discloses auditing system [Abstract; Figure 1; Col. 1 lines 1+ "System and Method for Auditing", "ACES audit system"]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Broadbent and Florance and include auditing system, as disclosed by Acosta, to provide a computerized loan auditing system for automating the auditing, storing loan records, legal regulation, investor specific parameters to facilitate a customized auditing criteria for storing, reporting on audit recommendations and exceptions.

Re. Claims, 2-8 and 10-16, Broadbent discloses wherein said mortgage originator enters data into said first database via a software package [para. 11, 25], wherein said procedures for processing said data provided by said mortgage broker and said investor comprise business rules and or compliance requirements [para. 51], wherein said comparison engine writes said reconciled data to said first database or said at least one additional database [inherently record can be added, deleted to database], wherein said at least one additional database comprises at least one database selected from the group consisting of property tax databases, independent property valuations databases, income/employment verification databases, income tax databases, and credit databases [para. 24], wherein said business rules comprise investor business rules, regulatory compliance requirements, or insurability requirements [para. 24], compliance requirements are issued by at least one entity selected from the group consisting of federal government agencies, state governments, local governments, banking regulators, FHA, VA, and FNMA/FHLMC [para. 13, 25], re-auditing (recheck) and allowing said broker to select additional documents from said forms library [Figure 4D and associated description].

Florance further discloses manipulating individual data fields within said populated documents, documents are populated automatically, re-auditing the

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documents with said compliance engine and reconciling discrepancies created by manipulating individual data fields within said populated documents, reconciling discrepancies created by adding additional documents and creating create database sets [see above]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Broadbent and include reconciling said discrepancies; auditing (examining and underwriting) said reconciled discrepancies and populating data and additional information consistent with procedures for processing said data provided by said mortgage originator and said investor into documents contained within a forms library, as disclosed by Florance, to correlate data, and databases for facilitating for real estate loan applications and manipulating the data for examination for processing a loan application and underwriting.

Acosta discloses auditing system [Abstract; Figure 1; Col. 1 lines 1+ "System and Method for Auditing", "ACES audit system"]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Broadbent and Florance and include auditing system, as disclosed by Acosta, to provide a computerized loan auditing system for automating the auditing, storing loan records, legal regulation, investor specific parameters to facilitate a customized auditing criteria for storing, reporting on audit recommendations and exceptions.

Applicant respectfully points out that in order to combine references for an obviousness rejection, there must be some teaching, suggestion or incentives supporting the combination. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q. 2d 1397, 1399 (Fed. Cir. 1989). The mere fact that the prior art could be modified does not make that modification obvious unless the prior art suggests the desirability of the modification. *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). In addition, it is well established that Applicant's disclosure cannot be used to reconstruct Applicant's invention from individual pieces found in separate, isolated references. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (Fed. Cir. 1988). Applicant respectfully submits that there is no

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motivation, teaching or suggestion to combine Broadbent with Florance. Therefore, the rejection on a combination of these references is inappropriate.

Requirements for a Prima Facie Case of Obviousness

In order to establish a *prima facie* case of obviousness, Section 2143 of the MPEP requires that:

...three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

MOTIVATION TO COMBINE

Addressing the first criteria, the MPEP prescribes in Section 706.02(j) that:

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP § 2144 - § 2144.09 for examples of reasoning supporting obviousness rejections.

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In the most recent Action, the Examiner has not pointed out any teaching in the cited references that “expressly or impliedly suggest[s] the claimed invention.” Nor has the Examiner “present[ed] a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” The only teaching of the implementation of a system and method to method for supporting a universal wireless headset, is in the Applicant’s own application. The applicant respectfully submits that the examiner has not provided explicit reasoning as to what would have prompted one of ordinary skill in the art to combine the cited references to produce the claims of the instant application. Thus, the Examiner’s rejection fails to meet the first criteria for a *prima facie* case of obviousness.

REASONABLE EXPECTATION OF SUCCESS

The hypothetical combiner, having combined any combination of Broadbent and Florance to provide a system for preparing documents as claimed would not system operable to audit data from various databases and populate documents for a loan closing. Rather, one would merely have a loan processing system operable to generate sets of tasks to be completed for a loan closing, wherein the tasks may be populated with real estate data from various commercial real estate specific databases. Florance merely teaches that information from commercial real estate databases may be distributed to real estate professionals. No quality assurance checks of loan documents are provided in either Broadbent or Florance. Thus, the hypothetical combiner of Broadbent and Florance would find it impossible to avoid the loss of revenue associated with errors contained within loan closing documents. As a result, the Examiner’s rejection fails to meet the second criteria for a *prima facie* case of obviousness.

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TEACHING OR SUGGESTION OF ALL CLAIM LIMITATIONS

The present application teaches, and all the claims of the present application claim, a system and method to prepare loan documents. Broadbent does not teach all the claim limitations of the present application. Neither does Florance teach the omitted limitations. The application of the claimed invention is to reduce or eliminate errors found in loan documents that negatively impact the value of these loan documents. As described above, the hypothetical combiner will be unable to provide this improved quality assurance associated with the loan documents. Thus, the proposed combination of references neither teaches nor suggests all the claim limitations and, as such, the Examiner's rejection fails to meet the third criteria for a *prima facie* case of obviousness.

Applicant respectfully submits that there is no motivation, teaching or suggestion to combine Broadbent with Florance. Therefore, the rejection on a combination of these references is inappropriate. Withdrawal of the rejection allowance of Claims 1-27 is respectfully requested.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-27.

Respectfully submitted,

/Robert A. McLauchlan, Reg. No. 44,924/

Robert A. McLauchlan
Reg. No. 44,924

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ATTORNEY FOR APPLICANTS

Robert A. McLauchlan
P.O. Box 26780
Austin, Texas 78755
Tel: (512) 339-4100
Fax: (512) 692-2529